



December 2, 2014

House Natural Resources Committee  
Lansing, Michigan

RE: SB 791 – Facilitation of Underground Storage tank Cleanups

Dear Representatives,

The Michigan Environmental Council participated as a member of the Refined Petroleum Advisory Council and has closely monitors progress on this critical issue. At stake is the drinking water of Michigan families that are threatened by contaminated sites that remain unaddressed.

A similar funding program in the 1980s (MUSTFA) resulted in a number of closures of contaminated sites, but shortcomings in financial controls resulted in the program ceasing operations. A primary goal of this legislation should be to avoid making similar mistakes.

The Michigan Environmental Council supports the legislation but thinks that it can be strengthened in significant ways, such as the following:

**High-risk tanks** – The report of the Refined Petroleum Advisory Council and the background documentation show that about 37% of the tanks in the ground present a high-risk of leaking due to their age or tank type. However, this proposal does not in any significant way recognize those sites as posing a greater risk or provide incentives for owner to replace those tanks in a timely manner. If this new program is to replace the current insurance required of tank owners it must in some way require the payment of a premium that reflects the risk posed by the tank being utilized.

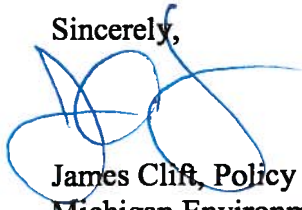
**Deductible issues** - The amount of deductible an owner is responsible for is significantly different for owners or operators with less than 8 tanks (reduced from \$50,000 to \$15,000). It is relatively easy through the use of limited liability companies or other ownership instruments to reduce the number of stations controlled to 8 stations or less. Experience over the years has shown the proving of “affiliation” between companies is very difficult and would increase administrative costs to the program. Therefore, the deductible amount should be set at one level for all tanks and at a number which can sustain the program.

**Cost containment** – One major criticism of the MUSTFA program was the failure of the owner to have any “skin n the game” when it comes to cost containment. Once an owner has satisfied his or her deductible, they would have no incentive to advocate for limiting

future costs. The deductible should be structured to include a percentage of costs up to a certain point that would provide the owner or operator an incentive to join the fund administrator in keeping costs under control.

Allocation to Underground Storage Tank Cleanup Fund – The current language sets an annual amount that would be credited to the fund. This placed the burden of the shrinking revenues on the state side of the equation to address orphan sites and other program costs. The current \$20 million allocation represents approximately 40% of fund revenues. We suggest use of a percentage allocation rather than a specific dollar amount so that both funds share the impacts of declining revenues over time.

Sincerely,



James Clift, Policy Director  
Michigan Environmental Council